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June 22, 1994

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

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JUN 22 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Re: Ex Parte Presentation in
PP Docket No. 93-253

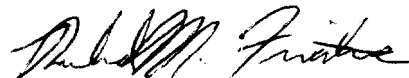
Dear Mr. Caton:

In accordance with the Commission's ex parte rule, 47 C.F.R. § 1.1206, an original and one copy of this letter are being filed in PP Docket No. 93-253 as notification that on Tuesday afternoon, June 21, 1994, George Murray and I met with Byron F. Marchant, Senior Legal Advisor to Commissioner Andrew C. Barrett.

Generally, we discussed the need for the Commission to award bidding credits to PCS broadband bidders which have significant ownership (e.g., 10% and higher) and management participation by Designated Entities. The issues we discussed are set forth in greater detail in the attachment to this letter.

Please contact me if you have any questions regarding this matter.

Respectfully submitted,



Richard M. Firestone

Attachment

cc: Byron F. Marchant, Esq.
Senior Legal Advisor
Office of Commissioner Barrett

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June 17, 1994

SUMMARY OF POINTS BY GEORGE E. MURRAY
ON AWARDING BIDDING CREDITS TO BROADBAND
PCS BIDDERS THAT HAVE SIGNIFICANT AND MEANINGFUL
PARTICIPATION BY MINORITIES OR WOMEN
PP DOCKET NO. 93-253

- Congress clearly intended that the FCC adopt mechanisms to ensure that Designated Entities would have a meaningful opportunity to participate in the development of new telecommunications services, including PCS.
- To achieve this goal, the Commission should award bidding credits to: (a) bidders controlled by Designated Entities, and (b) bidders that include significant and substantial participation by Designated Entities, with the amount of the credit tied to the extent of the participation.
- It is crucial that the Commission award bidding credits and adopt this two-pronged approach so that Designated Entities have a realistic opportunity to compete for major urban markets and regional markets, and are not relegated to just the smaller or less economically attractive markets.
 - To develop a PCS system requires substantial risk capital; historically, Designated Entities, particularly minorities, have not had access to traditional capital sources, much less the type of risk capital in the magnitude required to acquire, build and operate a PCS system.
 - Major companies may be willing to joint venture with Designated Entities to provide additional capital resources, but not if those companies are precluded from having a controlling interest in the bidder. A company which has substantial capital at risk typically demands certain controls.
- Bidding credits would only be awarded in cases where a Designated Entity shares control with a non-Designated Entity-controlled bidder if the Designated Entity's participation in the bidder is real and meaningful, meeting clear and objective standards. For example:
 - A Designated Entity must contribute its share of the bidder's total equity capital equivalent to the Designated Entity's percentage ownership;
 - A Designated Entity must participate in management by:
 - (a) being one of the general partners, if the bidder is a general or limited partnership; or (b) if the bidder

is a corporation, having the right to designate a particular number of seats on the board of directors (and any other governing bodies of the corporation, such as any management or executive committees) which corresponds to the Designated Entity's ownership interest in the bidder.

- There should be a sliding scale of bidding credits that would increase as the ownership interest of the Designated Entity increased.
 - For example, if the Designated Entity owned 10% interest in the bidder, a 15% credit would be available to the bidder; if the Designated Entity owned a 15% interest, the bidder would get a 20% to 25% credit.
 - The sliding scale approach provides incentives to increase Designated Entities' participation.
- The bidding credits system described above is not intended to supplant credits provided to a Designated Entity bidding alone, but rather to supplement that approach. There should be more than one vehicle to encourage Designated Entity participation if Congress' objective is to be achieved, particularly in a market like broadband PCS. It would be a travesty if FCC requirements for ownership and control or elimination of bidding credits resulted in little or no minority participation in PCS.